

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KENNETH J. PHELAN, 09A1183,

Plaintiff,

-v-

10-CV-6612CJS

**ORDER**

S. ECKERT and J. BERBARY,

Defendants.

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Plaintiff Kenneth Phelan, who is presently incarcerated at the Great Meadow Correctional Facility, has submitted to the Court a complaint and an affidavit of poverty seeking permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). Before this action can proceed the Court must receive a signed Authorization from plaintiff authorizing the institution in which the plaintiff is confined to pay the full **\$ 350.00** filing fee.

The Clerk of the Court is directed to send a new form application to proceed as a poor person and a Prison Authorization Form.

Accordingly, the plaintiff has until **December 13, 2010** to (a) furnish the Court with a signed Authorization authorizing the institution in which the plaintiff is confined to pay the full \$350.00 filing fee **or** (b) pay the full filing fee of \$ 350.00.

If the Court does not receive another signed Authorization **or** the full fee of \$ 350.00 on or before such date, **this action will**

**be dismissed without further notice** to the plaintiff and, if any part of the filing fee has already been submitted to the Court from the institution, it will be returned to the institution for deposit in the plaintiff's inmate account.

IT IS HEREBY ORDERED, that the Clerk of the Court is to close this case as dismissed after **December 13, 2010**, if the plaintiff has not either provided the Court with a signed Authorization or paid the full filing fee by that date.

**SO ORDERED.**

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S/ MICHAEL A. TELESKA  
MICHAEL A. TELESKA  
United States District Judge

Dated: November 2, 2010  
Rochester, New York